

# Exhibit 5

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Dey, Inc., et al.,*  
Civil Action No. 05-11084-PBS

Exhibit to the July 24, 2009, Declaration of George B. Henderson, II  
In Support of Plaintiffs' Motion For Partial Summary Judgment  
and In Opposition To Dey's Motion For Partial Summary Judgment

I N T E R  
O F F I C E

**DEY, L.P.**  
**MEMORANDUM**

**TO:** Distribution  
**FROM:** Susan J. Schnars *(Signature)*  
**DATE:** July 26, 2000  
**RE:** New Albuterol Inhalation Aerosol Kit & Refill  
AWP / WAC Changes

We are in the process of announcing the availability of a **new Albuterol Inhalation Aerosol 17g Kit & Refill** from DEY. New NDC numbers have been assigned to these products (see below). Our existing 303 line has been discontinued.

As you know, the current aerosol products manufactured by Glaxo-Wellcome have been on back order recently and we have had to seek out a new manufacturer, Medeva Pharmaceuticals. The new products are AB rated to Ventolin and the packaging (quantity per carton/case) configurations remain unchanged at this time. Please note there are only minor changes to the carton appearance and carton/case dimensions. The actuator is also now blue with a detachable cap.

Due to the large quantity of backorders and limited product available, we have begun rolling out the new product as shipments arrive from the manufacturer. Only the kit is available at this time. We will advise you when the refill comes in.

The first "wave" of shipments went out the week of July 18. Letters were faxed and mailed to these customers as they were shipped. The general announcement letter is scheduled to arrive with customers on approximately August 1, 2000. The Pricing Databases were notified of the NDC number change. WAC and AWP pricing remains unchanged on the MDI at this time. Medicaid offices will receive notification both directly from DEY, as well as, on their upcoming reports from the pricing database to which they subscribe.

The following is detailed product information:

Old NDC Number	New NDC Number	Description	Size/Strength	Units/Ctn
49502-303-17	49502-333-17	Albuterol Inhalation Aerosol 17 g (Kit)	200 inhalations 90 mcg/puff	1
49502-303-27	49502-333-27	Albuterol Inhalation Aerosol 17 g (Refill)	200 inhalations 90 mcg/puff	1

DL-TX-0093570

New Albuterol Inhalation Aerosol Kit & Refill  
AWP / WAC Changes Memorandum continued

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Please refer to the attached customer letters for further details on the above changes.

Additionally note the WAC and AWP price changes on other items have been incorporated into the notification letters. New Price Lists will be available shortly:

WAC Price List

- Albuterol Inhalation Aerosol NDC, UPC, and product number change.
- Addition of Curosurf® (see notation on price lists regarding special conditions of sale)
- WAC price increases for EasiVent™ Valved Holding Chamber and EasiVent™ Masks

AWP Price List

- Albuterol Inhalation Aerosol NDC, UPC, and product number change.
- Addition of Curosurf® (see notation on price lists regarding special conditions of sale)
- AWP price decrease for Acetylcysteine, Sodium Chloride, and Sterile Water products.
- AWP price increases for EasiVent™ Valved Holding Chamber and EasiVent™ Masks

Be sure to **DISCARD ALL OLD DEY PRICE LISTS when you receive the new ones**, as they are out of date and no longer valid. Several attachments are enclosed for your review and use. Thank you.

Attachment:

ANDA Approval Letter  
Customer Letters (Dey Customer, Chain Pharmacy, Wholesaler)

Distributed to Sales Only:

Ad Slicks (Field Sales Only - to replace those in your Ad Slick Binders)

Copy of New & Old Carton Packaging (Field Sales Only)

Sample of New Blue Actuator with Cap (Field Sales Only)

Interim Stickers (for use on all literature pieces containing the MDI until revised literature is available)

M00-017

DL-TX-0093571

DEY057-2460

**Distribution:****Accounting - 6**

Jack Benner  
 Bill Dudley  
 Colleen Farley  
 Dennis Hooke  
 Don Stein  
 Lisa Wiley

**Contracts/ Marketing Services - 3**

Karen Clark  
 Russ Johnston  
 Steve Strom

**Distribution - 3**

Tom Gills  
 Rhonda Justice  
 Angel O'Halloran

**Executives - 6**

Imtiaz Chaudry  
 David Jones  
 Pam Marrs  
 Gary Michaud  
 Bob Mozak  
 Charles Rice

**Marketing -10**

Todd Galles  
 Glenn Garry  
 Eve Gmeiner  
 Diane Morrill  
 Laura Nielsen  
 Gretchen Pieper  
 Juvy Raguini

Yolanda Ramos  
 Susan Sandeen  
 Susan Schnars

**Materials/Purch. - 3**

Don Hume  
 Alan McCall  
 Ken Quirici

**MIS - 2**

Mark Moramarco  
 Gary Walker

**QA/QC - 2**

Mary Lou Freathy  
 Cal McGoogan

**Regulatory - 1**

Peggy Berry

**Sales - 180**

ASMs – 3  
 ISRs – 17  
 KAMs- 34  
 NAMs / McNams –11  
 TAMs – 100  
 RSMs – 15

**Napa Sales - 6**

Cindy Daulong  
 Steve Desrosiers  
 Bill Pouw  
 Steve Robertson  
 Willia Tate  
 Alan Witten

**Training - 2**

Jack Stevens  
 Robert Meier



DEY, L.P.  
 2751 Napa Valley Corporate Drive  
 Napa, CA 94558  
 TEL (707) 224-3200 FAX (707) 224-8918

July 18, 2000

Dear DEY Customer:

Beginning July 18, 2000, DEY will be changing the NDC number and begin shipping a new **DEY Albuterol Inhalation Aerosol, 17g Metered Dose Inhaler Kit and Refill**. They should be cross-referenced to our existing 303 line which is being discontinued.

The new products are AB rated, and pricing remains unchanged at this time. The following is detailed product information:

Old NDC Number	New NDC Number	Description	Size/Strength	Units/Ctn
49502-303-17	49502-333-17	Albuterol Inhalation Aerosol 17 g (Kit)	200 inhalations 90 mcg/puff	1
49502-303-27	49502-333-27	Albuterol Inhalation Aerosol 17 g (Refill)	200 inhalations 90 mcg/puff	1

If you need additional information, please feel free to contact your DEY Representative at 800-755-5560. You may place an order by calling your local distributor or our Order Department at 800-527-4278.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Schnars".

Susan J. Schnars  
 Assistant Product Manager II

C9-303-00

DL-TX-0093573

A Lipha Americas Company

An Associate of Merck KGaA, Darmstadt, Germany

DEY057-2462



DEY, L.P.  
 2751 Napa Valley Corporate Drive  
 Napa, CA 94558  
 TEL (707) 224-3200 FAX (707) 224-8918

July 18, 2000

Dear Wholesaler:

Beginning July 18, 2000, DEY will be changing the NDC number and begin shipping a new **DEY Albuterol Inhalation Aerosol, 17g Metered Dose Inhaler Kit and Refill**. They should be cross-referenced to our existing 303 line which is being discontinued.

A new item fact sheet for these new products is enclosed for your convenience. The WAC price on these products remain unchanged. The following is detailed product information:

Old NDC Number	New NDC Number	Description	Size/Strength	Units/Ctn
49502-303-17	<b>49502-333-17</b>	Albuterol Inhalation Aerosol 17 g (Kit)	200 inhalations 90 mcg/puff	1
49502-303-27	<b>49502-333-27</b>	Albuterol Inhalation Aerosol 17 g (Refill)	200 inhalations 90 mcg/puff	1

If new wholesaler order numbers are needed, please assign them. Notify Steve Desrosiers of changes at 800-755-5560 ext. 4740, or fax the information to him at 888-617-7877.

Additionally, note there have been WAC price changes to the EasiVent™ Valved Holding Chambers and EasiVent™ Masks. Replace your fact sheets with the revised ones enclosed. These changes are effective August 1, 2000.

If you need additional information, please feel free to contact your DEY Representative at 800-755-5560. You may place an order by calling our Order Department at 800-527-4278.

Sincerely,

A handwritten signature in black ink, appearing to read "Schnars".

Susan J. Schnars  
 Assistant Product Manager II

DL-TX-0093574

C9-304-00

A Lipha Americas Company

An Associate of Merck KGaA, Darmstadt, Germany

DEY057-2463



DEY, L.P.  
 2751 Napa Valley Corporate Drive  
 Napa, CA 94558  
 TEL (707) 224-3200 FAX (707) 224-8918

July 15, 2000

Dear Chain Pharmacy:

Starting July 15, 2000, DEY will be changing the NDC number and begin shipping a new DEY **Albuterol Inhalation Aerosol, 17g Metered Dose Inhaler Kit and Refill**. They should be cross-referenced to our 303 existing line which is being discontinued. Pricing remains unchanged at this time.

A new item fact sheet is enclosed for your convenience. The following is detailed product information:

Old NDC Number	New NDC Number	Description	Size/Strength	Units/Ctn
49502-303-17	<b>49502-333-17</b>	Albuterol Inhalation Aerosol 17 g (Kit)	200 inhalations 90 mcg/puff	1
49502-303-27	<b>49502-333-27</b>	Albuterol Inhalation Aerosol 17 g (Refill)	200 inhalations 90 mcg/puff	1

If you need additional information, please feel free to contact your DEY Representative at 800-755-5560. You may place an order by calling your local distributor or our Order Department at 800-527-4278.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Schnars'.

Susan J. Schnars  
 Assistant Product Manager II

C9-305-00

DL-TX-0093575

A Lipha Americas Company  
 An Associate of Merck KGaA, Darmstadt, Germany

DEY057-2464